

2 FAM 940

PAYMENT OF REWARDS FOR INFORMATION IN CASES OF INTERNATIONAL TERRORISM

(TL:GEN-227; 07-12-1985)

2 FAM 941 AUTHORITY

(TL:GEN-227; 07-12-1985)

(State Only)

Section 102 of the 1984 Act to Combat International Terrorism (P.L. 98-533) added a new section 36 to the State Department Basic Authorities Act of 1956 (the "Act") (22 U.S.C. 2708) providing the Secretary of State with authority to pay a reward of not more than \$500,000 to any individual who furnishes information leading to:

(a) "... the arrest or conviction, in any country, of any individual for the commission of an act of international terrorism, or;"

(b) "... the arrest or conviction, in any country, of any individual for conspiring or attempting to commit an act of international terrorism, or;"

(c) "... the prevention, frustration, or favorable resolution of an act of international terrorism, if the act of international terrorism is against a United States person or United States property and is primarily outside the territorial jurisdiction of the United States."

A reward of \$100,000 or more "may not be made without the approval of the President or the Secretary of State personally."

This program authorizes the payment of rewards only in consideration of the furnishing by an eligible individual of information that produces the results specified in the authorizing legislation, as described above.

Subchapter 2 FAM 940 applies solely to the payment of rewards under the authority described above.

2 FAM 942 DEFINITION OF "ACT OF TERRORISM"

(TL:GEN-227; 07-12-1985)

(State Only)

Although the authorizing legislation for this subchapter contains no definition of the term "act of terrorism," the companion authority provided to the Attorney General to pay rewards for information in cases of domestic terrorism by section 101(a) of P.L. 98-533 contains the following definition of this term, which the legislative history indicates is intended to apply in the international context to the Secretary of State's authority as well:

"... the term 'act of terrorism' means an activity that-

(A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or of any State, or that would be a violation if committed within the jurisdiction of the United States or of any State; and

(B) appears to be intended-

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnaping."

2 FAM 943 CONSULTATION WITH THE ATTORNEY GENERAL

(TL:GEN-227; 07-12-1985)

(State Only)

Subsection 36(c) of the Act provides that the Secretary shall "advise and consult with the Attorney General" before making a reward "in a matter over which there is Federal criminal jurisdiction." In practice, this will mean that consultation with the Department of Justice will usually be required before making a reward in any matter involving threatened, attempted, or actual attack on U.S. Government personnel or facilities overseas, or involving certain other categories of violent acts over which the United States, pursuant to international convention or otherwise, exercises global criminal jurisdiction, such as hostage-taking or hijacking or sabotage of civil aircraft. The Office of the Legal Adviser (L/LEI) will advise on a case-by-case basis as to the applicability of this requirement.

2 FAM 944 CERTIFICATION FOR PAYMENT

(TL:GEN-227; 07-12-1985)

(State Only)

Pursuant to subsection 36(d) of the Act, any reward granted under this authority must be certified for payment by the Secretary of State.

2 FAM 945 PROTECTION OF IDENTITY OF A RECIPIENT

(TL:GEN-227; 07-12-1985)

(State Only)

Subsection 36(d) of the Act gives the Secretary of State authority, if the Secretary determines that "the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected," to "take such measures in connection with the payment of the reward as he deems necessary to effect such protection." Specific measures employed to protect the identity of a recipient or potential recipient (and immediate family members as appropriate) beyond the security procedures generally applicable to the rewards program, as set forth in section 2 FAM 948.3, will depend on the circumstances of each case.

2 FAM 946 INELIGIBILITY OF GOVERNMENT OFFICERS OR EMPLOYEES

(TL:GEN-227; 07-12-1985)

(State Only)

Subsection 36(e) of the Act provides that "an officer or employee of a governmental entity who, while in the performance of his or her official duties," furnishes information as described in section 2 FAM 941 above, "shall not be eligible for a reward under this section." This applies both to U.S. and foreign government officers and employees at all levels of government.

2 FAM 947 COORDINATION WITH HOST GOVERNMENT AUTHORITIES

(TL:GEN-227; 07-12-1985)
(State Only)

The rewards program is to be carried out in such a manner as to supplement and complement the bona fide security and law enforcement efforts of host government authorities, who bear the primary responsibility in these areas. To this end all stages of the rewards process (see section 2 FAM 948.1) will be closely coordinated whenever appropriate with responsible host government authorities. Such coordination should be accomplished primarily between the Regional Security Officer (RSO) and local security and law enforcement authorities (see section 2 FAM 948.2-1).

2 FAM 948 PROCEDURES

2 FAM 948.1 The Rewards Process

(TL:GEN-227; 07-12-1985)
(State Only)

The process of offering and paying a reward will normally consist of the following stages.

2 FAM 948.1-1 The Initial Decision to Offer a Reward

(TL:GEN-227; 07-12-1985)
(State Only)

Proposals that a reward be offered under this program may originate at post or at the Department. If a proposal originates at post it should be coordinated by the RSO (see section 2 FAM 948.2-1) and approved by the Chief of Mission in the country involved before being forwarded to the Department for approval. Any such proposal shall be accompanied by specific details concerning its feasibility in light of the factors set forth in this section.

In no case may a post offer a reward under this program without express approval from the Department. If a proposal originates at the Department the views of the relevant post(s) will normally be sought before making a decision to offer a reward.

(a) In cases covered by sections 2 FAM 941 (a) and (b) (information leading to arrest or conviction for commission of, or for attempt or conspiracy to commit, an act of international terrorism) the decision will depend particularly on the following considerations:

(1) The seriousness of the injury or potential injury to U.S. persons or property;

(2) The likelihood that the offer of a reward by the United States will materially aid in bringing perpetrators to justice; and

(3) The attitude of host government authorities toward such an offer.

(b) In cases covered by section 2 FAM 941(c) concerning information leading to the prevention or frustration of an act of international terrorism, the decision will depend particularly on the following considerations:

(1) The credibility and specificity of available information indicating that there is a threat of such an act;

(2) The seriousness of the danger to U.S. persons or property indicated by the available information;

(3) The likelihood that an offer of a reward would elicit additional information that could materially aid in successfully avoiding or countering the threat; and

(4) The attitude of host government authorities toward such an offer.

(c) In cases covered by section 2 FAM 941(c) concerning the favorable resolution of an act of international terrorism, the decision will depend particularly on the following considerations:

(1) The seriousness of the danger posed by the act to U.S. persons or property;

(2) The likelihood that the offer of a reward will elicit information that will materially assist in favorably resolving the ongoing act (e.g., a hostage-taking or aircraft hijacking); and

(3) The attitude of host government authorities toward such an offer.

2 FAM 948.1-2 Offering the Reward

(TL:GEN-227; 07-12-1985)

(State Only)

If, after evaluation of the situation in accordance with section 2 FAM 948.1-1 above, a decision is made to offer a reward, the relevant post(s) should make recommendations to the Department on the specific terms of the offer and the medium or media through which the offer will be made. The Department will provide final instructions on these points.

The offer will normally be made through the appropriate mass communications medium or media (e.g., newspaper, radio, television) although certain circumstances may dictate other means of transmitting the offer, such as through informal contacts.

Where the offer is made through the mass media, its terms will normally include:

(a) Identification of the entity offering the reward (ordinarily the United States Government, although in certain circumstances it may be necessary or desirable to avoid direct mention of the USG role);

(b) A statement of the maximum amount being offered;

(c) A concise description of the incident or situation in connection with which the reward is being offered;

(d) A clear characterization of the type of information sought, e.g., "information leading to arrest and conviction of the person or persons responsible for" the incident;

(e) Particulars as to where information meeting the terms of the offer should be directed;

(f) A statement of the ineligibility of any officer or employee of any governmental entity furnishing information in performance of his or her official duties; and

(g) A statement that all details, including in particular the identity of any informant, will be kept strictly confidential.

2 FAM 948.1-3 Evaluating Information Received in Response To the Offer

(TL:GEN-227; 07-12-1985)

(State Only)

The post through which the offer is being made shall designate one officer, normally the responsible RSO (see section 2 FAM 948.2-1 below), to collect all information received in response to the offer. Any such information received by any other officer or employee of the post shall be immediately conveyed to the officer designated under the preceding sentence, subject only to considerations of protection of intelligence sources and methods or the proprietary nature of the information. That officer, reporting in the officer's capacity as Executive Secretary of the Emergency Action Committee (EAC) to the Deputy Chief of Mission (DCM), will be responsible for performing initial evaluation of the credibility and relevance of the information and for ensuring that it is properly coordinated within the post and transmitted to the

Department, to other posts which may have an interest in it, and to host country authorities as appropriate, in a timely fashion for further review and action.

2 FAM 948.1-4 Acting Upon Information Received in Response To the Offer

(TL:GEN-227; 07-12-1985)
(State Only)

Normally the Department will issue instructions as to specific measures to be taken in response to information received in response to an offer, such as further contacts with host country authorities, follow-up questioning of an informant, or modification of the original terms of an offer. If, however, information received at post is of sufficient credibility and urgency to warrant responsive action in the absence of instructions from the Department, the responsible officer(s) at post should take necessary steps and immediately inform the Department.

2 FAM 948.1-5 Payment Of the Reward

(TL:GEN-227; 07-12-1985)
(State Only)

At the appropriate time, e.g., after arrest of a perpetrator or once a terrorist incident is favorably resolved, the post should make a detailed report to the Department on the outcome of any incident in connection with which a reward offer was made. The report shall include an assessment of the impact on such outcome of information received in response to the offer, and a statement of the position of the host government authorities regarding the payment of a reward in the case, with particular attention to the effect of such a payment on any law enforcement efforts being undertaken by such authorities. Once this information has been evaluated by the Department, and the Secretary has made a decision on whether a reward will be paid (see section 2 FAM 948.2-2), the post will be notified and arrangements will be made to pay the reward.

2 FAM 948.2 Responsibilities

2 FAM 948.2-1 At Post

(TL:GEN-227; 07-12-1985)

(State Only)

The RSO, in that officer's capacity as Executive Secretary to the EAC, shall be primarily responsible for the rewards program at each post within the officer's jurisdiction. Such responsibility shall include implementation of each of the stages of the rewards process as set forth in section 2 FAM 948.1 above, including coordination where appropriate at each such stage with host government authorities. In carrying out this responsibility the RSO shall remain subject to the overall direction and supervision of the DCM and Principal Officer(s) concerned, and shall coordinate with other officers at post as appropriate.

2 FAM 948.2-2 At the Department

(TL:GEN-227; 07-12-1985)

(State Only)

All proposals to offer a reward under this program, whatever their source, will be coordinated by the Office for Counter-terrorism and Emergency Planning (M/CTP) and the Office of Security (A/SY) under the auspices of the Interdepartmental Group on Terrorism (IGT). In carrying out this responsibility M/CTP and A/SY shall consult with representatives of the Office of the Legal Adviser (L/LEI), the relevant region bureau(s) of the Department of State, the Department of Justice (Criminal Division), the Federal Bureau of Investigation, and the Central Intelligence Agency. Following such consultation M/CTP and A/SY will make a recommendation to the Secretary of State regarding the overall feasibility of the proposal, taking into account the specific recommendations as to the terms and amount of the offer. If, after consideration of the recommendations, the Secretary decides that a reward should be offered the Secretary may authorize such offer and instruct post to take the necessary steps.

M/CTP and A/SY shall monitor the reward process at all stages and make final recommendations as to payment of rewards, approval of which shall be handled as described in the preceding paragraph.

2 FAM 948.3 Security Procedure

(TL:GEN-227; 07-12-1985)
(State Only)

All telegraphic communications relating to the implementation of this program, including: proposals that rewards be offered; reports of information received in response to rewards, measures taken in response to information received, contacts with host government authorities, and other relevant information; and instructions from the Department to posts, will be transmitted in the appropriate channel with a classification level and distribution controls sufficient to ensure the security of these operations and persons involved in them. All other documents relating to such implementation (e.g., internal memoranda) will be afforded a similar level of protection. In particular, information relating to the identity of an informant, such as names or other personal data and times, places and circumstances of contacts with U.S. officials, shall be handled in accordance with appropriate operational security procedures.

2 FAM 948.4 Accounting For Funds

(TL:GEN-227; 07-12-1985)
(State Only)

Fiscal responsibility and accountability for moneys appropriated for use in carrying out the program will reside in the Department of State, which will also be responsible for instituting appropriate financial controls, including such controls as may be necessary to maintain the confidentiality of payments within the framework of internal control and audit requirements.

2 FAM 948.5 Additional Procedures

(TL:GEN-227; 07-12-1985)
(State Only)

Additional detailed procedures for the administration of the rewards program, including security matters, will be drafted expeditiously by M/CTP and A/SY in consultation with the offices and agencies listed in section 2 FAM 948.2-2 above.

2 FAM 949 UNASSIGNED